

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Criminal Action
)	No. 19-10075-MLW
)	
RUDOLPH "RUDY" MEREDITH,)	
)	
Defendant.)	
)	

BEFORE THE HONORABLE MARK L. WOLF
UNITED STATES DISTRICT JUDGE

RULE 11

March 28, 2019

John J. Moakley United States Courthouse
Courtroom No. 19
One Courthouse Way
Boston, Massachusetts 02210

Kelly Mortellite, RMR, CRR
Official Court Reporter
One Courthouse Way, Room 5200
Boston, Massachusetts 02210
mortellite@gmail.com

1 APPEARANCES:

2 On Behalf of the Government:

Eric S. Rosen

3 Justin D. O'Connell

Leslie Wright

4 United States Attorney's Office MA

1 Courthouse Way

5 Suite 9200

Boston, MA 02210

6 617-748-3412

eric.rosen@usdoj.gov

7 justin.o'connell@usdoj.gov

leslie.wright@usdoj.gov

8
9 On Behalf of the Defendant:

Paul F. Thomas

10 Felice Duffy

Duffy Law, LLC

11 129 Church Street

Suite 310

12 New Haven, CT 06510

203-946-2000

13 felice@duffylawct.com

paul@duffylawct.com

14 Young Paik

15 Paik & Brewington LLP

92 State Street, Suite 700

16 Boston, MA 02109

617-439-0150

17 yp@paikbrewington.com

P R O C E E D I N G S

(Case called to order.)

THE COURT: Good afternoon. Would counsel please identify themselves for the court and for the record.

MR. ROSEN: Good afternoon, Your Honor. Eric Rosen for the government.

MR. O'CONNELL: Good afternoon, Your Honor. Justin O'Connell for the government.

MS. WRIGHT: And Leslie Wright for the government, Your Honor.

MR. THOMAS: Good afternoon, Your Honor. Paul Thomas on behalf of Mr. Meredith.

MR. DUFFY: Good afternoon, Your Honor. Attorney Felice Duffy on behalf of Mr. Meredith.

MR. PAIK: Good afternoon, Your Honor. Young Paik for the defendant, Mr. Rudy Meredith.

MR. THOMAS: And I should note that Mr. Meredith is seated beside me.

THE COURT: Yes. Thank you.

We're here today in connection with Mr. Meredith's request to waive indictment and plead guilty to the two charges against him. As you know from the orders I issued yesterday and earlier tomorrow -- earlier today, I have some questions that I'd like to have addressed before we get to that to clarify or amplify certain points so I can properly question

1 Mr. Meredith.

2 I don't at the moment foresee any impediment to
3 concluding this this afternoon, but I did tell you in the order
4 that I issued yesterday that when I saw that Mr. Meredith was
5 the former Yale women's soccer coach, being a graduate of Yale
6 in 1968, I considered whether I had any actual bias or
7 prejudice. And I don't. I'll decide matters in this case the
8 way I would decide them if Mr. Meredith had coached someplace
9 else.

10 And I considered whether a reasonable person might
11 question my impartiality and came to the conclusion in the
12 circumstances I described to you that a reasonable person could
13 not. But I wanted to, A, disclose that, and B, give you a
14 chance to ask me any reasonable questions you'd like to ask if
15 you have any questions or concerns about an appearance of
16 partiality.

17 MR. ROSEN: Thank you, Your Honor.

18 First, the government respectfully notes there is a
19 3:30 initial appearance for another coach in this case. If the
20 hearing runs past 3:30, AUSA Leslie Wright will probably step
21 out from the bench to attend that initial --

22 THE COURT: Okay.

23 MR. ROSEN: I don't want you to think we're being
24 disrespectful.

25 Second thing is, the government is not questioning

1 partiality. I would like to just put on the record just so
2 it's clear for all the parties, if you could expand your
3 analysis under the A prong about the impartiality, and might
4 reasonably be questioned, just so it's clear for any appellate
5 issues that might come out further down the road.

6 THE COURT: Okay. And does the defendant have any
7 questions?

8 MR. THOMAS: No, Your Honor. I accept Your Honor's
9 representations. Thank you.

10 THE COURT: I had occasion to discuss the standards
11 that apply to 28 U.S.C. Section 455(a), the provision that says
12 a judge should disqualify himself if a reasonable
13 fully-informed person could question his impartiality. So
14 those are the standards I've applied here.

15 And I wrote about four pages on what the standards
16 were, so I don't mean, if I mention just part of them, to
17 exclude the rest. But, for example, the First Circuit has
18 cited and quoted then Judge Anthony Kennedy's -- actually
19 perhaps he was on the Supreme Court when he wrote it --
20 Justice Anthony Kennedy's statement that Section 455(a) is
21 triggered -- 455(a) gets implicated when there's no actual bias
22 or prejudice but to preserve public confidence in the
23 administration of justice. It is necessary that a judge
24 disqualify himself if a reasonable person could nevertheless
25 question his impartiality, if that person was fully informed.

1 So the Supreme Court in Liteky, 510 U.S. at 557-58, or
2 actually Justice Kennedy concurring, the First Circuit
3 reiterating in cases like Snyder and In re United States,
4 Section 455(a) is triggered by an attitude or state of mind so
5 resistant to fair and dispassionate inquiry as to cause a
6 party, the public or reviewing court, to have a reasonable
7 grounds to question the neutral and objective character of the
8 judge's rulings or findings. I think all would agree that a
9 high standard is required to satisfy this standard, thus, under
10 Section 455(a), a judge should be disqualified only if it
11 appears that he or she harbors an aversion or hostility or
12 disposition of a kind that a fair-minded person could not set
13 aside when judging the dispute. And as the Second Circuit said
14 in In re Aguinda, 241 F. 3d 194 at 204, in essence, "The
15 presumption is that a judge will put personal beliefs aside and
16 rule according to the laws enacted, as required by his or her
17 oath."

18 So as I told you, I graduated from Yale in 1968. I'm
19 grateful for the opportunity to have gone there. I didn't
20 write that. I make what by Yale's standards is a modest
21 contribution each year to the annual fund and pay dues. I made
22 a somewhat larger contribution in connection with my 50th
23 reunion last year. But I don't think that in -- I don't
24 believe that in those circumstances any reasonable person could
25 think that I would violate my oath to impartially administer

1 the law, and I'm confident I won't. Therefore, I am not
2 recusing myself.

3 And indeed, the First Circuit has repeatedly written
4 that when a reasonable person wouldn't -- couldn't question a
5 judge's impartiality, the judge should sit. So that's my
6 reasoning.

7 MR. ROSEN: Thank you.

8 THE COURT: And I'll note that under 28 United States
9 Code Section 455(e), the parties can waive any possible basis
10 for disqualification under Section 455(a), although not waive
11 actual bias or prejudice under (b).

12 Does the government wish to waive any objection under
13 455(a)?

14 MR. ROSEN: Absolutely, Your Honor.

15 THE COURT: And the defendant?

16 MR. THOMAS: We join in that.

17 THE COURT: Okay. All right.

18 And Mr. Rosen, you were concerned about potential
19 issues on appeal where things change. That's -- well, first of
20 all, I want to get things right. But second, I, too, would
21 like this to be final as well as fair.

22 I'm dealing with another case now where a defendant
23 represented by a very experienced Criminal Justice Act counsel
24 says his lawyer told him that if he pled guilty, after I denied
25 a motion to suppress, he retained his right to appeal that

1 decision. It wasn't a conditional plea. So we want to get it
2 right for a variety of reasons, but one is so we only do all of
3 this once, okay?

4 All right. I think it would be helpful to me if,
5 starting with the government particularly, you would give me an
6 overview of these charges, perhaps the genesis of the case. As
7 I was beginning to prepare for this yesterday, I issued the
8 order telling you about a number of questions that came to my
9 mind, some of which will relate to the colloquy with the
10 defendant, Mr. Meredith. But I think if you give me an
11 overview and try to address some or all of the issues I raised
12 in the order yesterday, that would be helpful.

13 MR. ROSEN: Judge, I'm more than happy to do that.
14 Most of this is public now, so I know in the cooperation
15 agreement we had decided to reveal, subject to your order, and
16 we've read the orders.

17 THE COURT: Well, it was revealed anyway. Part of the
18 reason I issued my order was in the complaint you identified
19 the CW-3 as the former Yale soccer coach. So there's no proper
20 basis for keeping under seal something that the government has
21 made public.

22 MR. ROSEN: That's accurate, Your Honor.

23 The case began, I would say officially, in sort of the
24 February/March time period of 2018. We executed a search
25 warrant in Los Angeles, as stated in the statement of facts, at

1 a home of a person suspected of being involved in a securities
2 fraud, specifically, pump and dump schemes in the United
3 States, Canada and Switzerland.

4 Like many individuals involved in that, they choose to
5 come in and cooperate with the government, in early March this
6 individual came in and cooperated and engaged in a multi-day
7 proffer with the government. As is usual in a case involving
8 securities fraud, I was present there for the proffer primarily
9 along with some of my colleagues as well as agents from the
10 FBI.

11 During the time of that proffer, the cooperator
12 revealed that he had been engaged for some time in a bribery
13 scheme with the current defendant, Mr. Meredith, and that
14 bribery scheme had originated probably in the summer of 2017.
15 And when I say "probably," it's because it's sometimes hard to
16 pinpoint the exact date an agreement is arrived upon between
17 two parties to bribe someone.

18 And the amount of the bribe actually had not been set
19 yesterday. It was going to be in the six-figure range, but
20 they were still sort of -- I don't want to say haggling over
21 the price, but they were still engaging in talk over that. But
22 payments had been made from the individual in Los Angeles to
23 Mr. Meredith in Connecticut.

24 So reading your order yesterday about sort of
25 manufacturing jurisdiction and things like that, by the time

1 the government stepped in in the spring of 2018, the crime had
2 been already been completed. We already had the agreement to
3 bribe. It was really just a corroboration at that point. So
4 in sort of beginning in mid-March, mid to late March, and
5 continuing up through April --

6 THE COURT: Let me just clarify something for my
7 understanding. The individual in Los Angeles that you just
8 mentioned, is that the father or family member of applicant 2,
9 the source, the person in Count Two, or is that somebody else?

10 MR. ROSEN: That is the father of applicant 2. So
11 that brings up sort of another point. As Your Honor aptly
12 noted in your order, there were some ministerial errors in the
13 information. And the agreement with Rick Singer was not part
14 of any agreement with applicant 2. And that was, obviously,
15 the government's fault. We take responsibility for that. It
16 wasn't meant to deceive. There was just obviously a lot going
17 on at the time of drafting --

18 THE COURT: Just to make sure I understand this, so
19 the information as it's written in paragraph 23 incorporates
20 allegations in paragraphs 1 to 22, including 17 to 22, which
21 relate to applicant 2, but those charges, you're telling me,
22 should not be regarded as part of the alleged conspiracy with
23 Singer, as you use the word in your statement of facts; that's
24 a separate crime of conspiracy?

25 MR. ROSEN: There are three errors, Judge, in the

1 information. The first is paragraph 23 should not incorporate
2 by reference paragraphs 1 through 22. It should incorporate
3 paragraphs 1 through 16, purely the conspiracy.

4 Count Two should be -- it's the same error. Instead
5 of incorporating paragraphs 1 through 22 it should be
6 essentially -- well, the beginning part is the same, but it
7 should be focused on the factual allegations in paragraph 17
8 through 22. There are two separate crimes involving the same
9 victim. And that was a ministerial error. There is an error
10 also in the caption of that count. It says, "Honest services
11 wire fraud." It should say, "Honest services wire fraud and
12 wire fraud." And that's an error as well.

13 THE COURT: All right. Well, okay. And this is
14 helpful.

15 MR. ROSEN: So essentially, this is going back to the
16 facts, beginning in sort of March through April, about a
17 one-month period --

18 THE COURT: Let me pause you for just a moment because
19 it relates to another -- here, keep going, keep going.

20 MR. ROSEN: Okay. Beginning in approximately March
21 through April of 2018, the person in Los Angeles made a series
22 of reported telephone calls to the defendant. And this has
23 been publicly stated on the record.

24 In those telephone calls, they satisfy -- already
25 satisfy the elements of the crime, and it was also from Los

1 Angeles to Connecticut, in which they talked about an exchange
2 of a recruitment spot at Yale in exchange for a still
3 undetermined amount of money.

4 On April 12 or approximately on that date, the
5 individual from Los Angeles came to Boston, Massachusetts.
6 Mr. Meredith came up from New Haven, Connecticut. They met in
7 a hotel room here in Boston, Massachusetts. This was recorded
8 on video.

9 At that time, approximately at that time, it happened
10 together, we obtained bank records for Mr. Meredith. And in
11 the meeting in the hotel room, which is recorded on video, as I
12 said, they finalized the price of \$450,000. Mr. Meredith was
13 provided with \$2,000 in cash. And they also mentioned an
14 individual named Rick Singer.

15 THE COURT: Who mentioned Mr. Singer?

16 MR. ROSEN: The defendant.

17 THE COURT: Is that the first you had heard of
18 Mr. Singer?

19 MR. ROSEN: Indeed it was. So we obviously watched
20 the video, and we got the bank records, and we saw that
21 Mr. Meredith had obtained approximately \$860,000 from
22 Mr. Singer in the years leading up to that meeting in the hotel
23 room.

24 So one of your questions asked in the order was why
25 wasn't -- Mr. Meredith was then -- about a week later, he

1 became a government cooperator as well.

2 So the question in the order was why wasn't
3 Mr. Meredith charged with the RICO. Because at the time he
4 began cooperating pursuant to a proffer agreement and pursuant
5 to standard policies, we didn't know about the RICO. It
6 wasn't -- it wasn't on our radar. We had learned about that
7 through Mr. Meredith, the phone calls, dozens and dozens of
8 subpoenas, search warrants and an extremely extensive
9 investigation that ultimately led to charges against, I
10 believe, 50 people.

11 THE COURT: So are you communicating to me that
12 pursuant to guideline Section 1B1.8(a), you didn't -- you
13 didn't feel you could use the information that Mr. Meredith
14 gave you to include him in a RICO charge?

15 MR. ROSEN: That is correct. At the time we only had
16 the honest services charge against him because we were unaware
17 of the enterprise.

18 THE COURT: The honest services charge, based on the
19 comment made in the hotel room?

20 MR. ROSEN: Based on the comment made in the hotel
21 room, based on bank records, ultimately based on emails
22 obtained through a variety of different processes. So that's
23 the extent of why a RICO was not charged against Mr. Meredith.

24 I also note, for what it's worth, that I don't believe
25 the guidelines are affected by the lack of a RICO charge. It's

1 simply a means for obviously --

2 THE COURT: And each count of mail fraud has, what, a
3 20-year maximum?

4 MR. ROSEN: That's correct, yeah.

5 THE COURT: And has the prospect of a downward
6 departure from the guidelines, which will be less than 20
7 years, I assume?

8 MR. ROSEN: Yes, I imagine.

9 THE COURT: So it's not likely to have a practical
10 effect on what the ultimate sentence is?

11 MR. ROSEN: I completely agree with that, yes.

12 THE COURT: That's your position. I'm trying to see
13 if I understood your position.

14 MR. ROSEN: Correct. So the two charges are separate
15 charges, the first based on the conspiracy with Singer and
16 others, and that would include, we believe, sort of the network
17 of people; and the second charge is purely based on his
18 interactions with the father of Yale applicant 2.

19 THE COURT: Well, the first charge involves, in some
20 places I think you say the father and in some places you say
21 the family of Yale applicant 1.

22 MR. ROSEN: Correct.

23 THE COURT: Again, this has some practical
24 significance. I'm going to set a sentencing date. But is
25 there a prospect of a superseding indictment in this case that

1 will -- or have you charged in a complaint the father or family
2 of applicant 1?

3 MR. ROSEN: Judge, that's -- an investigation is
4 ongoing. If I can limit it to that, that would be fine.

5 THE COURT: Okay. All right. So that's not somebody
6 charged in a complaint as of now?

7 MR. ROSEN: There hasn't been charges publicly
8 revealed about the family of the Yale applicant 1, if those
9 charges were to exist.

10 THE COURT: Okay. Keep going. This is very helpful.

11 MR. ROSEN: So essentially, so that was April of 2018
12 in which Mr. Meredith began cooperating. Mr. Meredith then
13 began making phone calls to Mr. Singer in California. And
14 those calls were designed to corroborate what we had learned
15 from email search warrants as well as bank records as well as
16 to lay the foundation for a wiretap of Mr. Singer's telephone.

17 We had learned through the recorded telephone calls
18 that this obviously was not related to a single bribe paid to a
19 single coach but rather a scheme, a scheme to defraud the
20 universities of the honest services of their employees as well
21 as the property that they -- the admissions slot for Yale.

22 So we began making a series of recorded calls. We
23 received an additional payment from Mr. Singer. And then as
24 stated in many publicly available documents, the wiretap began
25 in early June of 2018.

1 At that point, Mr. Meredith obviously had been
2 cooperating, and the wire tap lasted for some time. During
3 that time period Mr. Meredith continued to make some additional
4 calls, not very many because at that point we were
5 intercepting, according to court-authorized orders,
6 Mr. Singer's telephone, and we did that pursuant to, you know,
7 court authorization for a period of approximately four months,
8 interception of both the telephone calls, text messages as well
9 as the emails of Mr. Singer. And during that time we executed
10 also a number of search warrants under his email accounts in
11 the case that's been set forth in numerous charging documents
12 in court.

13 THE COURT: And when we get to sentencing, I'm going
14 to have to start by correctly calculating the guideline range.
15 Is there evidence -- will there be evidence of essentially
16 relevant conduct that Mr. Meredith engaged in, you know, took
17 bribes more than two times?

18 MR. ROSEN: The number -- the number set forth in --
19 well, you know, in the information and also I believe in the
20 statement of facts is approximately \$1.31 million for intended
21 loss. And that includes 860,000 for Mr. Singer and
22 approximately 450,000 for the father of Yale applicant 2, but I
23 note that that amount was not paid. It was agreed upon, of
24 which only \$6,000 was paid.

25 THE COURT: All right. But those are the two counts

1 in the indictment, right?

2 MR. ROSEN: Correct.

3 THE COURT: So under --

4 MR. ROSEN: Are you asking --

5 THE COURT: Under the guidelines, if there's relevant
6 conduct --

7 MR. ROSEN: Right.

8 THE COURT: -- I have to include it to calculate the
9 guideline range, which is the starting point for determining
10 the sentence. So my question -- maybe I'll take it a step
11 back. Have you investigated whether there were other bribes,
12 which will probably be part of the same common scheme or plan;
13 and if so -- well, you preserved in your cooperation agreement
14 the authority to meet your obligation to respond to Probation
15 and the court with regard to questions that might affect the
16 guideline range.

17 I don't know if Mr. Meredith's one of the few people
18 in my many years who had the misfortune of getting caught the
19 first time out, but you'll have this conversation and colloquy
20 with your colleague, Mr. Grady, in the DeJong case, 18-10307.
21 In fact, I'll ask Ms. Bono to give you each a copy.

22 MR. ROSEN: Okay. I can answer your question, Judge.

23 THE COURT: Let her -- here. Answer the question.

24 MR. ROSEN: The answer is twofold. The answer is,
25 beyond the monetary payments of 860 and 450, do we have

1 evidence of additional bribe payments. And the answer is no.
2 The 860, though, was not for one applicant to Yale.

3 THE COURT: Have you sought to -- did you try to
4 acquire more evidence?

5 MR. ROSEN: We did.

6 THE COURT: Okay.

7 MR. ROSEN: And, you know, obviously an information,
8 we did not -- I mean, it's an extremely extensive
9 investigation, so we try to keep it a little short. So we
10 didn't lay out all the evidence in the information. And there
11 wasn't an intent to deceive. It was simply we didn't want to
12 make it --

13 THE COURT: Here. I'll have Ms. Bono give you each a
14 copy of the February 11, 2019 DeJong order. And if it would
15 raise a problem you think with regard to your obligation --
16 well, anything you learn from Mr. Meredith in a proffer
17 pursuant to your cooperation agreement, it appears to me, can't
18 be used against him at sentencing.

19 MR. ROSEN: That's correct.

20 THE COURT: It doesn't mean you don't have to disclose
21 it to Probation or the court, and it doesn't mean that there's
22 not other information. You just said there was. And I just
23 need everything, and then I can decide what I can consider
24 because I have to calculate the guideline range to start the
25 sentencing. But here, Ms. Bono will give it to you.

1 MR. ROSEN: The monetary amount, Your Honor, we
2 believe is complete, the 1.31 million. I do not believe
3 there's evidence that exists of additional --

4 THE COURT: That's helpful because I didn't know where
5 the 860 came from.

6 MR. ROSEN: Yeah.

7 THE COURT: She'll give you this. United States v.
8 DeJong, 18-10307, docket number 43. And if, in communicating
9 with Probation or filing your sentencing memo, you think you
10 have a problem, an issue as to what you ought to disclose, tell
11 me and we'll figure it out.

12 MR. ROSEN: Okay.

13 THE COURT: I'll decide. Go ahead.

14 MR. ROSEN: Well, that's sort of almost toward the
15 end. We did the sort of -- as publicly stated, we obviously
16 did the wiretap for a period of four months, and then we moved
17 into a consensual period for a period of time as well, leading
18 up to unsealing the charges on March 12, 2019.

19 And during that time period Mr. Meredith, the
20 consensual period, it wasn't obviously Mr. Meredith's
21 telephone, but it was -- I don't believe we -- we were not
22 actively using him as a cooperator during that time period.

23 THE COURT: All right. I've got a few more questions
24 for you, though.

25 MR. ROSEN: Sure.

1 THE COURT: And then I think I'll want to hear from
2 Mr. Duffy.

3 All right. So with regard to Count One.

4 MR. ROSEN: Yes.

5 THE COURT: When I exclude, as you've asked me to do,
6 paragraph 17 to 22 --

7 MR. ROSEN: Correct.

8 THE COURT: -- there's no alleged connection with the
9 District of Massachusetts I think, right?

10 MR. ROSEN: Well, A, how you frame the conspiracy is
11 important here. There was -- Mr. Meredith was obviously part
12 of a larger conspiracy involving the defendant and also Singer
13 and other people like that. During the time period of the
14 conspiracy, there were multiple overt acts that took place in
15 the District of Massachusetts.

16 THE COURT: This sounds to me, this is just what I was
17 trying to get at. This sounds to me inconsistent with what you
18 told me before; that Count Two is separate from the conspiracy
19 with Singer. I have to -- you gave it to me. I give it to the
20 jury all the time. I have to make sure that the defendant is
21 pleading guilty to the conspiracy charged in the information
22 and not some other conspiracy or conspiracies. So I don't, at
23 the moment, see how applicant 2 can be an overt act in
24 furtherance of the separate conspiracy with Mr. Singer.

25 MR. ROSEN: I agree.

1 THE COURT: This is my concern. And then, you know, I
2 try to -- I read through this, and I wish I had known you made
3 a mistake and had a superseding information. This would have
4 been easier. But you have in the plea agreement a waiver of
5 right of venue. This is one of the things I have to question
6 the defendant about. In Count One, you allege that the conduct
7 occurred in Connecticut and elsewhere, but you don't say in
8 Massachusetts.

9 MR. ROSEN: Right.

10 THE COURT: In Count Two you say Massachusetts. So
11 one, I don't at the moment foresee this is going to be material
12 to anything I have to decide, but it doesn't -- based on what
13 you told me earlier about Count Two being separate, I don't
14 know that the conduct involved in Count Two would create venue
15 in Massachusetts.

16 MR. ROSEN: Well, I agree with that. Count Two is
17 entirely separate from Count One. Count One involves a
18 conspiracy with Rick Singer and others known and unknown, which
19 we would include in that the other coaches that are involved in
20 the scheme. And during that time period of the conspiracy, for
21 those people, not Mr. Meredith, there were numerous overt acts
22 involved in the District of Massachusetts, including mailings
23 of payments for bribes to the District of Massachusetts as well
24 as applications to schools containing falsified scores and the
25 like. So there is venue here. We put it in the information.

1 We also, we trimmed it down to the District of Connecticut and
2 elsewhere just to simplify for the court and jurors.

3 THE COURT: I don't think it simplifies it. It
4 complicates it. Because if we were to try this case, which I
5 expect we're not going to be doing, I'd have to decide whether
6 the jury could convict based on uncharged overt acts, whether
7 the defendant had fair notice of it. But I thought that you
8 were saved on this issue by the waiver of venue.

9 But this is something I've got to ask Mr. Meredith
10 about, and I haven't encountered Mr. Duffy before. I now
11 realize that he's got a lot of experience with the federal
12 system, so I'm confident he knows what I'm talking about and
13 has by this point talked to his client about it.

14 MR. ROSEN: I mean, the waiver of venue obviously is
15 applicable here. Your Honor noted in his order that obviously
16 defendants can waive venue. So however we want to do it --

17 THE COURT: It's not so obvious. I had to go and do a
18 little research. But it actually was pretty obvious because I
19 found the cases myself. I didn't have to rely on my brain
20 trust.

21 MR. ROSEN: I think regardless of how we want to sort
22 of splice this particular case, I do believe there would be
23 venue for the overall conspiracy in the District of
24 Massachusetts. It's charged as such in other counts in other
25 charging instruments with different judges.

1 THE COURT: Not in this case. But it's okay. We'll
2 go one step at a time. But Mr. Duffy, am I right that --
3 Mr. Thomas, I'm sorry, am I right that the defendant is waiving
4 any objection to venue on Count One in the District of
5 Massachusetts?

6 MR. THOMAS: That's correct. And I think Your Honor
7 anticipated that had been a matter of consideration in the
8 court's order. Indeed that was something that I identified as
9 a potential complicating issue that wouldn't not be in the
10 larger picture in Mr. Meredith's interest, given the
11 jurisdiction over the other count here. And rather than divide
12 and have complicated litigation in Connecticut, here in Boston,
13 let's bring it together, particularly since our goal is to
14 resolve. And so Your Honor did see that correctly, and we have
15 discussed that, and it did make I think profound sense to waive
16 venue.

17 THE COURT: No. That's very helpful. All right.
18 Well, I expect with regard to Count One I'm going to proceed
19 based on the waiver and that -- you know, it's a reasonable,
20 responsible thing for effective counsel to do in the
21 circumstances as I understood them when I issued the order
22 yesterday and as I'm coming to understand them better.

23 In the plea agreement, as I pointed out yesterday, in
24 paragraph 1 it says --

25 MR. ROSEN: Sorry, which paragraph?

1 THE COURT: Paragraph 1, docket number 17. "Defendant
2 also agrees to waive venue, waive any applicable statute of
3 limitations." Is there a statute of limitations issue?

4 MR. ROSEN: No. It's just --

5 THE COURT: Okay. "And to waive any legal or
6 procedural defects in the information." Maybe I haven't been
7 reading other plea agreements recently closely enough because
8 so many of them are essentially the same. But what does that
9 mean, "to waive any procedural defects in the information"?

10 MR. ROSEN: Judge, it is a standard provision, we
11 believe, in our plea agreements. I believe -- obviously, we
12 came here and discussed a couple of errors in the information.
13 I think it just refers to that. I don't think it's a legal
14 procedural defect, but if it was, the point I think is just to
15 generate a finality for the proceedings and not to go back on
16 little tiny ministerial errors like those that were committed.

17 THE COURT: I don't know that it's so tiny. It used
18 to be that all the indictments were reviewed by -- this was a
19 long time ago -- the chief of the criminal division, Deputy
20 U.S. Attorney, me, the U.S. Attorney, and in some cases by the
21 Department of Justice. But it is just important to know what
22 the allegations are, particularly because they affect venue.

23 All right. So basically like a legal defect would be
24 an error that you made in paragraph 23 by incorporating
25 paragraph 17 to 22 about applicant 2?

1 MR. ROSEN: That's correct.

2 THE COURT: This is very helpful because I have to
3 assure that Mr. Meredith understands this, but I can't do that
4 unless I think I understand it.

5 MR. ROSEN: I understand.

6 THE COURT: All right. I am going to talk to you
7 about the jury instructions that I propose to give, but why
8 don't I hear from Mr. Duffy -- Mr. Thomas, I'm so sorry --
9 Mr. Thomas first. He responded on one thing, but you see all
10 the issues I raised yesterday, and the one I raised today we'll
11 get to, but what would you like to say?

12 MR. THOMAS: So I agree with the government's
13 chronology of the development, investigation, evolution of this
14 case. We came into the case shortly after that event with
15 Mr. Meredith here in this district. I'm not sure that -- based
16 upon what the government's evidence was, we have come to the
17 agreement that's before Your Honor, which is to resolve this
18 matter with a plea to two charges that I think fit. I
19 understand that there are some perhaps esoteric but nonetheless
20 fundamental questions about what the crimes are, and I think
21 that it is my review of it, and I may be getting ahead of where
22 Your Honor wants to be --

23 THE COURT: That's okay. Go ahead.

24 MR. THOMAS: But I do believe that the honest services
25 is really quite a clear charge in this case. The iffiness

1 comes down where there are not bribes, there are not kickbacks.
2 But I think under Skilling it's pretty clear. They used an
3 interesting archaic term, I think pole-staff [sic] was the
4 word, clear as a pole-staff [sic]. We had to look that up to
5 find out what that meant. It goes back to the 1600s. But what
6 that essentially translates to is it's clear that those types
7 of honest services violations are indeed fraudulent within the
8 statute.

9 THE COURT: Well, this is why I wanted to -- there are
10 certain features of the instructions I'm going to give
11 Mr. Meredith that I want to point out, then I'm going to ask
12 you to do what you would do anyway, both of you, all of you,
13 listen carefully to my instructions and tell me whether you
14 think they're inaccurate or incomplete in some material way.
15 But as you know from the order I issued this morning, that I
16 have -- is there something you'd like to say before I go to the
17 jury instructions?

18 MR. THOMAS: There is one point that Your Honor raised
19 about the conspiracy charge and the scope of that and it might
20 be relevant conduct. And while we are here because we believe
21 the elements of the charged conspiracy are indeed provable with
22 the evidence the government has and that Mr. Meredith intends
23 to admit to, I think his conspiracy was far narrower. He did
24 not know about, you know, much of what was going on outside of
25 his own particular field, if you will.

1 THE COURT: Well -- I'm sorry. Go ahead.

2 MR. THOMAS: He was aware of the possibility, but he
3 wasn't a participant in anything beyond what he did.

4 THE COURT: Well, if I had to instruct the jury, I
5 expect I'm going to instruct them that he didn't have to know.
6 The question is what's reasonably foreseeable.

7 MR. THOMAS: That would be an interesting issue where
8 we could go down that line. I think nonetheless --

9 THE COURT: I hadn't focused or thought of that. I've
10 been thinking more of the situation that I have in DeJong, and
11 that is whether there's likely to be other relevant conduct or
12 relevant conduct that the government knows about that would
13 affect the guideline calculation, which is only the starting
14 point. And ultimately I'm going to give whatever sentence is
15 sufficient and no more than necessary. And if the government
16 makes a 5K1.1 motion based on substantial assistance, those are
17 usually granted and rewarded. But, you know, the Supreme Court
18 says I have to start by correctly calculating the guideline
19 range.

20 MR. THOMAS: Understood. And I would represent that
21 as far as we know, the government got it right; that they did
22 find the universe of wrongdoing.

23 THE COURT: All right.

24 MR. THOMAS: And that is within the two counts that
25 are charged.

1 THE COURT: All right. Let me see if I've got it. So
2 you've discussed with Mr. Meredith that he's waiving venue.
3 I'll ask him, you know, you may have a right to have Count One
4 tried in Connecticut or California, wherever, someplace else,
5 but he's content to go ahead with Count One in Massachusetts.

6 MR. THOMAS: We have discussed that --

7 THE COURT: And I think he has also waived his right
8 to complain about legal or procedural defects. In many cases I
9 would require the government to file a superseding information,
10 and maybe they should do that anyway to correct the errors, but
11 I don't think -- I'm not going to say that's an impediment to
12 going ahead today.

13 MR. THOMAS: And we've talked about that, and it is
14 not -- I think within the charging document there are properly
15 alleged foundation -- and that going that route or amending it
16 or challenging it in some way would be unnecessary and wasteful
17 expenditure of time and resources.

18 And I should say I agree with Mr. Rosen's analysis of
19 the problem that was created by the over-incorporation of
20 paragraphs in one count and the other and that he clarified
21 what should be included, and with that understanding, that
22 alleges properly the criminal charge.

23 THE COURT: Actually, there is one other thing, I
24 think at least one other thing I ought to discuss with you.
25 When I perceived that venue was not in Massachusetts, absent

1 the waiver, and that Mr. Meredith evidently had been lured here
2 as part of an undercover operation, at that point I wondered
3 whether there might be a defense of what's called manufactured
4 jurisdiction, a variation of entrapment. And I wanted --
5 again, you haven't been before me before. I try to be as
6 transparent as possible. There are many cases and there are
7 many other lawyers who may contest those cases, and I think
8 they're going to raise a number of issues. And I don't want to
9 get in the situation where Mr. Meredith says to me, you know,
10 my lawyer didn't tell me about that; or, gee, if I had known
11 there was that issue, maybe I would have done something
12 different.

13 So I looked at manufactured jurisdiction, which I
14 litigated in the Djokich case in 2010, and if I amplify what I
15 wrote yesterday based on what I know, which is more than I
16 often know when I take a plea but not what I know after a
17 trial, there probably wouldn't be a manufactured jurisdiction
18 instruction that I would give the jury because there would have
19 to be sufficient evidence of no predisposition to commit the
20 crime. And at least when I was dealing with this in 2010, it
21 was unclear whether manufactured jurisdiction could be a basis
22 for an outrageous government misconduct due process violation,
23 but I don't think -- in 2010, no court had ever found one, and
24 therefore I expressed the view yesterday that effective
25 counsel, it would be within the range of professional

1 competence, it would be effective to say to Mr. Meredith we
2 don't want to go to trial relying on that.

3 Was that your reasoning, too?

4 MR. THOMAS: Fundamentally, yes. It may well be in
5 these dozens of other cases pending there will be counsel of
6 who have a different view of what's in their client's interest.
7 It has been, in Mr. Meredith's view, his interest to accept
8 responsibility and resolve the case. And I think raising those
9 kind of claims about entrapment or things of that nature would
10 not further that one step. So Your Honor is again correct
11 about how we have analyzed and thought about the case.

12 THE COURT: And I'll ask Mr. Meredith of course
13 whether he's satisfied with your representation of him. But as
14 I said, based on what I know, advising him not to litigate
15 this, that issue, to go to trial because of that issue, is very
16 reasonable.

17 MR. THOMAS: Appreciate that.

18 THE COURT: What I think was not right is what I
19 pointed out this morning, when I read Skilling. On page 4 of
20 docket 18, statement of facts, to which the defendant --
21 statement of law to which the defendant said in its submission
22 this morning thought it was correct. The government wrote,
23 "The honest services wire fraud charge requires that the
24 defendant knowingly participate in a scheme to defraud Yale of
25 its right to the honest services of its employee -- here the

1 defendant himself -- through bribes or kickbacks." That I
2 think is correct. Then it goes on to say, "Notably, it may be
3 fraudulent if a person in a fiduciary relationship owing a duty
4 of loyalty to another, such as an employee-employer
5 relationship, fails to disclose information he knows should be
6 disclosed and fails to disclose it with intent to defraud
7 another." And the cite is to Skilling, 561 U.S. 358, 401.
8 Well, in 401, the Supreme Court is citing another case,
9 Bohones, for that language, but that's what I think it
10 expressly rejects on page 409.

11 It says, "The government urges us to go further," that
12 is, beyond bribery, "by locating within Section 1346's compass,
13 another category of proscribed conduct: 'undisclosed
14 self-dealing by a public official or private employee -- i.e.,
15 the taking of official action by the employee that furthers his
16 own undisclosed financial interests while purporting to act in
17 the interests of those to whom he owes a fiduciary duty.'"

18 So I think it was rejecting the case it was quoting on
19 401. And I'm interested in hearing you on this. But I believe
20 a bribe in the circumstances of this case is an essential
21 element of the honest services fraud charges.

22 MR. ROSEN: Correct.

23 THE COURT: And absent a bribe, the federal offense.

24 MR. ROSEN: And I would agree with you. I think
25 Skilling is very clear that honest services post-Skilling

1 applies only to bribes and kickbacks, and the government shares
2 that view. I don't think that -- and I think we say that. I
3 mean, it requires the defendant knowingly participate in a
4 scheme to defraud Yale and its right to the honest services of
5 its employee through bribes and kickbacks. And here I don't
6 think anybody is in dispute that Mr. Meredith received \$860,000
7 to recruit at least one applicant for a soccer spot allocated
8 by Yale and agreed to recruit a second one for \$450,000.
9 That's a clear bribe --

10 THE COURT: And that's why I don't see an impediment
11 to going forward. But I asked you for the proposed jury
12 instruction and statement of facts because I thought it might
13 make it easier for me to question the defendant. I haven't
14 instructed on honest services fraud since the DiMasi case,
15 which was affirmed in McDonough. But then when I focused on
16 this this morning, I think it's just wrong, and it shouldn't
17 have been in there.

18 MR. ROSEN: Okay.

19 THE COURT: And I'm not going to be relying on that in
20 instructing -- unless you want to be heard on it -- instructing
21 the defendant or presumably -- well, if I'm satisfied,
22 accepting the plea.

23 MR. ROSEN: No, Your Honor. That's fine. I think the
24 import after the bribe and kickbacks is that the information
25 failing to disclose obviously is the fact that the person is

1 getting a bribe or kickback, that's the fraud committed upon
2 the -- that's material knowledge that the employer would want
3 to have in making a decision.

4 THE COURT: All right. But in this case the facts,
5 the facts involve a bribe so --

6 MR. ROSEN: Correct.

7 THE COURT: -- there's not a problem. But I believe
8 that statement is an incorrect statement of the law.

9 There are two other, at least, issues embedded in the
10 jury instruction. One, I intend to instruct that the
11 government would have to prove beyond a reasonable doubt that
12 Mr. Meredith had a fiduciary duty to Yale and that I find that
13 an employee does have a fiduciary duty to his employer. They
14 said that in Skilling, said it was obvious, 561 U.S. 358 at
15 402. There's a Ninth Circuit case that I found helpful.
16 Milovanovic, 678 F. 3d 713 at 724. But I expect, if I were
17 trying this case, this could be a contested issue because there
18 is some jurisprudence that says you look to state law to see if
19 there's a fiduciary relationship, duty, and there doesn't seem
20 to be one under common law in Massachusetts. Probably in
21 Connecticut they rely on the restatement.

22 But I think for the purposes of this case there is a
23 fiduciary duty. I'm proceeding with that understanding. And
24 then I also, and your submission was helpful on this, intend to
25 instruct Mr. Meredith that the right to make a properly

1 informed decision and control who was admitted to Yale is a
2 form of Yale's property for the purpose of the wire fraud
3 theory that requires obtaining money or property by material
4 false statements; and you cited Frost, 125 F. 3d 346 at 367,
5 and Gatto, 295 F. Supp. 3d 336 at 347. It seems to me that
6 those are right. It might seem to someone else it's not. You
7 agree that that's the law, right, Mr. Thomas?

8 MR. THOMAS: Right. We have not disputed that. Those
9 are really alternative ways to prove the crime. If we were to
10 have litigated this, in the end I suppose we would have asked
11 the jury, asked Your Honor to instruct the jury to make a
12 decision as to which or both.

13 THE COURT: I know. Usually the instructions conflate
14 them and you might find me doing that somewhat -- well, not
15 conflating but not separating them. Okay. But I think those
16 were the major jury instruction related issues that I perceive.

17 Okay. So I think we're ready to for me to question
18 Mr. Meredith regarding whether he wishes to waive indictment
19 and proceed on the information and plead guilty. So he should
20 approach the witness stand and be sworn, and Mr. Thomas, you
21 may go with him with a copy of the two documents that
22 constitute the plea agreement, plea agreement and cooperation
23 agreement.

24 (Defendant duly sworn.)

25 THE COURT: Would you please state your true full

1 name.

2 THE DEFENDANT: Rudolph Meredith.

3 THE COURT: Mr. Meredith, do you understand you've
4 just taken an oath to answer the questions I'm going to ask you
5 truthfully and any failure to do that could be a separate
6 prosecutable criminal offense?

7 THE DEFENDANT: I do, Your Honor.

8 THE COURT: And do you understand that if you're
9 confused by any of my questions or unsure about what an honest
10 and accurate answer would be, I'll let you speak to Mr. Thomas
11 so we can clear up any confusion and you can give me a reliable
12 response?

13 THE DEFENDANT: I do, Your Honor.

14 THE COURT: How old are you?

15 THE DEFENDANT: 51.

16 THE COURT: Have you ever been arrested or convicted
17 under any name other than the name you just gave me?

18 THE DEFENDANT: No, no.

19 THE COURT: How far did you go in school?

20 THE DEFENDANT: I just finished my master's degree
21 last summer.

22 THE COURT: And have you ever been treated for mental
23 illness or drug addiction?

24 THE DEFENDANT: No.

25 MR. THOMAS: May we have a moment, Your Honor?

1 (Defendant confers with counsel.)

2 THE COURT: Yes. Was there a matter when you were in
3 college --

4 THE DEFENDANT: Yes.

5 THE COURT: -- that you got some counseling therapy
6 for?

7 THE DEFENDANT: Yes, yes, but I didn't see a doctor.
8 I talked to a counselor who was a friend.

9 THE COURT: Okay. That's fine. You don't have to say
10 more.

11 How long ago were you in college?

12 THE DEFENDANT: I graduated in 1992.

13 THE COURT: Okay. And are you now under the influence
14 of any drug, medication or alcohol?

15 THE DEFENDANT: No, Your Honor.

16 THE COURT: Have you been given a copy of the
17 indictment, the information with two charges against you?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: Did you read it?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Did you discuss it with Mr. Thomas?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: And I'll ask you about this again later.

24 Do you understand that each of those charges is what is called
25 a federal felony, meaning an offense that's punishable by more

1 than one year in prison?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: And do you understand that under the
4 Constitution of the United States, when a federal felony is
5 involved, you have a right to be charged in an indictment
6 returned by a grand jury rather than in an information like
7 this one that is issued by the United States Attorney's Office?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Do you understand that a grand jury is
10 made up of 16 to 23 people and at least 12 them would have to
11 find probable cause to believe that you committed a crime to
12 charge you with that crime in an indictment?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: Do you understand that if this matter was
15 presented to a grand jury, it might or might not return an
16 indictment on either or both charges?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: Do you understand however that, if I
19 accept your waiver of indictment, you'll be giving up your
20 right to be charged by a grand jury and this case will proceed
21 just as if you had been indicted on the information that's
22 issued by the U.S. Attorney's Office?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: Do you have there a copy of --

25 MR. THOMAS: We do, Your Honor. I'm sorry.

1 THE COURT: -- two letters, each dated March 4, 2019,
2 to Mr. Thomas from the U.S. Attorney's Office?

3 (Defendant conferring with counsel.)

4 MR. DUFFY: We have them with us.

5 THE COURT: You have them?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Well, one of them starts, the first
8 paragraph is change of plea. We'll make a copy of that Exhibit
9 1 of today's date. And the second March 4, 2019 letter says
10 "Cooperation Agreement." We'll make that Exhibit 2.

11 Did you sign each of those letters on the last page?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Did you read them before you signed them?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Did you discuss them with Mr. Thomas
16 before you signed them?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: Do those two letters together accurately
19 and completely describe your agreement with the government?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Has anybody made any promises to you or
22 given you any assurances that are not in those two letters?

23 THE DEFENDANT: No, Your Honor.

24 THE COURT: Has anybody threatened you or tried to
25 force you to waive indictment and plead guilty?

1 THE DEFENDANT: No, Your Honor.

2 THE COURT: And is that what you would like to do?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Well, I will accept your waiver of
5 indictment because I find you are competent, you are acting
6 knowingly and voluntarily, you are effectively represented and
7 therefore the waiver is appropriate.

8 Does somebody have a waiver form?

9 MR. THOMAS: I have -- shall we sign it?

10 THE COURT: Yes. If the defendant will sign it, I
11 will sign it, too.

12 MR. THOMAS: Your Honor, he was given two copies. One
13 will suffice, though, I hope?

14 THE COURT: One will suffice.

15 MR. THOMAS: Mr. Meredith and I have both signed it,
16 Your Honor.

17 THE COURT: And I've signed it, too. We'll move to
18 the arraignment phase of these proceedings.

19 Would you like us to read the information to you, or
20 will you waive, give up, the reading of the information?

21 THE DEFENDANT: We have the information. You don't
22 need to read it, Your Honor.

23 THE COURT: All right. And how do you wish to plead
24 to the two counts against you, guilty or not guilty?

25 THE DEFENDANT: Guilty, Your Honor.

1 THE COURT: Then I'm going to ask you some additional
2 questions to determine whether I should accept your guilty
3 plea. You told me that you read the information and discussed
4 it with Mr. Thomas; is that right?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: Are you fully satisfied with his work as
7 your lawyer?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: And did you discuss with Mr. Thomas the
10 issue that I -- one of the issues I was discussing earlier with
11 the attorneys; the fact that, unless you waive it, give it up,
12 you may have a right to have the conspiracy count, that's Count
13 One, proceed someplace other than Massachusetts, in Connecticut
14 possibly or possibly someplace else in the United States but
15 not in Massachusetts. Do you understand that?

16 THE DEFENDANT: Yes, I do, Your Honor.

17 THE COURT: And did you discuss that with Mr. Thomas?

18 THE DEFENDANT: Yes, we did, Your Honor.

19 THE COURT: And do you want to give up your right to
20 object to this case proceeding in the District of
21 Massachusetts?

22 THE DEFENDANT: Yeah -- yeah, I'm wavering. Yes.
23 Sorry.

24 THE COURT: Well, there's a difference between
25 wavering and waiving.

1 THE DEFENDANT: Sorry, Your Honor.

2 THE COURT: That's okay. Do you understand that you
3 may have a right to have this case proceed someplace other than
4 the District of Massachusetts?

5 THE DEFENDANT: Yes, I understand that, Your Honor.

6 THE COURT: And do you want to give up that right?

7 THE DEFENDANT: Yes, I'm giving up that right.

8 THE COURT: And is that something you discussed with
9 Mr. Thomas?

10 THE DEFENDANT: Yes, we have, Your Honor.

11 THE COURT: Do you understand that if this case was
12 going to be contested by you, you might have -- well, you could
13 argue that you were entrapped, that the government improperly
14 lured you to Massachusetts and caused you to commit a federal
15 crime in Massachusetts that you wouldn't have committed in
16 Massachusetts or anyplace else. Do you know that that's
17 something that might be argued?

18 THE DEFENDANT: I understand, Your Honor. Nobody
19 forced me to come to Massachusetts.

20 THE COURT: But have you discussed with -- this is a
21 little different. Have you discussed with Mr. Thomas whether
22 you want to give up the right to make that argument, which
23 might or might not be successful, and go ahead and plead guilty
24 anyway?

25 THE DEFENDANT: Yeah, I'm pleading guilty. I'll give

1 up that right, Your Honor.

2 THE COURT: And did you discuss that with Mr. Thomas?

3 THE DEFENDANT: Yes, I have, Your Honor.

4 THE COURT: And you understand that the government has
5 said today that there are three errors in the information
6 against you and that the charges regarding Yale applicant 2
7 that are in Count Two, despite what it says in the information,
8 should not be considered as part of the conspiracy charged in
9 Count One. Do you understand that?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: And do you understand that you're giving
12 up, if you plead guilty, your right to object to or seek any
13 legal relief based on those errors or any comparable errors?

14 THE DEFENDANT: Yes, Your Honor, I understand.

15 THE COURT: And did you discuss that with Mr. Thomas,
16 too?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: All right. Now, in the plea agreement --
19 when I refer to the "plea agreement," I'm talking about
20 Exhibits 1 and 2 -- you give up in addition certain rights to
21 appeal. In Exhibit 1, in paragraph 6, by pleading guilty,
22 you're agreeing not to appeal or otherwise challenge the fact
23 that you're guilty and also any sentence of 41 months in prison
24 or less. Do you understand that?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: And then in Exhibit 2, the cooperation
2 agreement, in paragraph 4, you're giving up your right to
3 appeal or otherwise challenge any sentence I give you if the
4 government files a motion telling me that you substantially
5 assisted in the investigation and prosecution of one or more
6 other people, and if I downwardly depart, give you a lower
7 sentence, because of that substantial assistance. Do you
8 understand that?

9 THE DEFENDANT: Yes, yes, Your Honor.

10 THE COURT: And did you discuss those two waivers of
11 rights to challenge or appeal with Mr. Thomas specifically?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: And do you want to give up those rights?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Do you understand if I accept your guilty
16 pleas, you'll become a federal felon, and you may lose certain
17 rights if you have, including the right to vote, to hold public
18 office, to serve on a jury and to possess a firearm?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: And do you understand if it turned out you
21 were not an American citizen, you might very well be deported
22 from the United States and not allowed to return without the
23 permission of the Secretary of Homeland Security?

24 THE DEFENDANT: I understand that, Your Honor.

25 THE COURT: And do you understand that the maximum

1 possible penalties for Counts One and Two of the information
2 are, with regard to each count, incarceration for up to 20
3 years, supervised release for up to three years, a fine of
4 \$250,000 or twice the gross gain or loss, whichever is greater,
5 a mandatory special assessment of \$100, restitution and
6 forfeiture to the extent charged in the information?

7 THE DEFENDANT: Yes, I understand, Your Honor.

8 THE COURT: Mr. Rosen, what is the maximum possible
9 restitution, if any?

10 MR. ROSEN: That's a difficult question.

11 THE COURT: Well, I have to give him a maximum number.
12 Otherwise, when we come to sentencing, I can't order
13 restitution in excess of that amount.

14 MR. ROSEN: Right.

15 THE COURT: It's axiomatic.

16 MR. ROSEN: Correct. I'm going to cap it now at the
17 amount of the actual material gain to the defendant, which was
18 the 866,000.

19 THE COURT: Do you understand that as part of the
20 sentence, you might be ordered to make restitution of \$866,000?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: Do you understand that's in addition to
23 any fine that might be imposed?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: Do you understand that if you're sentenced

1 to prison, when you get out, you'll be under the supervision of
2 the Probation Department on certain conditions; and if you
3 violate any of those conditions, you can be locked up again for
4 up to the full term of the supervised release?

5 THE DEFENDANT: I understand, Your Honor.

6 THE COURT: And do you understand that -- what's the
7 amount of the forfeiture, please?

8 MR. ROSEN: The total amount, Your Honor, is \$866,000.
9 It's divided up into sort of two tranches based on the amount
10 that he's already paid, which is the \$308,225.61, which he
11 already paid in May of 2018, and the money judgment of the
12 \$557,000.

13 THE COURT: Okay. And do you understand you may also
14 be ordered to forfeit \$866,000 as part of your sentence?

15 MR. THOMAS: Yes, with the understanding that a
16 significant portion of that has already been delivered but not
17 formally forfeited.

18 THE COURT: Yes.

19 THE DEFENDANT: Yes. Yes, I understand.

20 THE COURT: Do you understand that the sentencing in
21 your case will be governed by the advisory guideline system
22 that operates in Federal Court?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: And have you talked with Mr. Thomas about
25 how that guideline system might apply in your case?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Do you understand, however, that as we sit
3 here today, neither Mr. Thomas nor anybody else can tell you
4 with certainty what the guideline range is for your sentence or
5 what sentence I will impose because until I conduct a
6 sentencing hearing, I cannot make those decisions myself?

7 THE DEFENDANT: Yes, I understand, Your Honor.

8 THE COURT: And as part of that, it relates to what I
9 was discussing with the lawyers earlier. If it turns out that
10 there is evidence that it's legally permissible to consider
11 that indicates that you received other bribes as part of the
12 same common scheme or plan and it raises the total amount above
13 \$1,500,000, the guideline range for your sentence could be
14 higher than calculated in the plea agreement?

15 THE DEFENDANT: I understand that, Your Honor.

16 THE COURT: And do you understand that if the
17 government files a motion that informs me you've substantially
18 assisted in the investigation or prosecution of others, I'll
19 have the authority to give you a sentence that's lower than the
20 guideline range?

21 THE DEFENDANT: Yes, I understand, Your Honor.

22 THE COURT: But that will be up to me -- do you
23 understand it will be up to the government whether to file the
24 motion and then up to me whether to grant it and downward
25 depart?

1 THE DEFENDANT: Yes, I understand, Your Honor.

2 THE COURT: And do you understand that depending on
3 the facts, I may have the authority to give a sentence that's
4 higher or lower than the guideline range, but in many cases,
5 absent a motion for a downward departure based on substantial
6 assistance, I find that it's most appropriate to give a
7 sentence within the guideline range?

8 THE DEFENDANT: I understand, Your Honor.

9 THE COURT: Do you understand that there's no parole
10 in the federal system? So if I sentence you to prison, you
11 will be required to serve substantially all of that time in
12 prison?

13 THE DEFENDANT: Yes, I understand, Your Honor.

14 THE COURT: And do you understand if I give you a
15 sentence that's higher than you hoped for or even higher than
16 the government recommends, that won't be a reason permitting
17 you to withdraw your guilty plea?

18 THE DEFENDANT: I understand, Your Honor.

19 THE COURT: Do you understand you have a right, if you
20 want to use it, to have the charges against you decided at a
21 trial by a jury?

22 THE DEFENDANT: I understand, Your Honor.

23 THE COURT: And do you understand if we had a trial,
24 you would have a right to an attorney and, if you couldn't
25 afford an attorney, one would be appointed to represent you at

1 public expense?

2 THE DEFENDANT: I understand, Your Honor.

3 THE COURT: Do you understand that if we had a trial,
4 you would be presumed innocent? You would not have to prove
5 you were innocent; rather, the government would have to prove
6 you were guilty beyond a reasonable doubt to achieve your
7 conviction on either charge?

8 THE DEFENDANT: I understand, Your Honor.

9 THE COURT: Do you understand if we had a trial, you'd
10 have an opportunity through your lawyer to object to the
11 government's evidence and challenge its witnesses?

12 THE DEFENDANT: I understand, Your Honor.

13 THE COURT: Do you understand if we had a trial, you
14 would also have an opportunity but not an obligation to present
15 a defense?

16 THE DEFENDANT: I understand, Your Honor.

17 THE COURT: Do you understand that as part of that
18 you'd have an opportunity but not an obligation to testify
19 yourself; and if you decided not to testify, then I would
20 instruct the jury that it could draw no suggestion that you
21 were guilty from your decision not to testify?

22 THE DEFENDANT: Yes, I understand, Your Honor.

23 THE COURT: And do you understand if I accept your
24 guilty plea, you'll be giving up your right to a trial and
25 there will be no trial?

1 THE DEFENDANT: Yes, I understand, Your Honor.

2 THE COURT: Okay.

3 Let me just -- all right. Now I'm going to give you
4 instructions on the law that applies to Counts One and Two, and
5 then I'm going to ask you -- then I'm going to read the charges
6 to you and ask you whether you committed those crimes, having
7 in mind the legal standards that define them.

8 So do you understand that Count One charges you with
9 conspiring to commit wire fraud and honest services wire fraud?
10 Do you understand that?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: And do you understand that the government
13 would have to prove beyond a reasonable doubt conspiracy with
14 one of those two alleged objectives or goals but not both?

15 THE DEFENDANT: Yes, Your Honor, I understand.

16 THE COURT: And do you understand -- I thought Count
17 Two charges honest services wire fraud, but the government
18 wants it to be construed as wire fraud as well as honest
19 services wire fraud?

20 MR. ROSEN: That's correct.

21 THE COURT: And that's acceptable, Mr. Thomas?

22 MR. THOMAS: Yes, it is.

23 THE COURT: All right. So do you understand there are
24 also two parts to Count Two, two ways you can be convicted?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: All right. So do you understand that with
2 regard to honest services wire fraud, which is one of the two
3 objects of the alleged conspiracy in Count One and also one
4 form of the alleged crime in Count Two, the government would
5 have to prove a number of things beyond a reasonable doubt? Do
6 you understand first the government would have to prove that
7 you were employed by Yale during the relevant period?

8 THE DEFENDANT: Yes, I understand, Your Honor.

9 THE COURT: And do you understand that the government
10 would have to prove that you had a fiduciary relationship with
11 Yale, meaning a trusting relationship in which one party, you,
12 acts for the benefit of another, Yale, and induces the other
13 party to relax the care or vigilance you would ordinarily
14 exercise in making certain decisions?

15 THE DEFENDANT: Yes, I understand, Your Honor.

16 THE COURT: And that language comes from Milovanovic,
17 678 F. 3d at 724, and as I noted, the Supreme Court has
18 indicated that an employee has a fiduciary duty to his
19 employer, that's Skilling in note 41.

20 Do you understand that the government would have to
21 prove, to prove conspiracy to commit honest services fraud or
22 honest services wire fraud, that you engaged in a scheme to
23 breach your fiduciary duty to give Yale honest advice regarding
24 an applicant for admission in return for a bribe?

25 THE DEFENDANT: Yes, I understand, Your Honor.

1 THE COURT: And do you understand a bribe is a payment
2 to the defendant, you, in exchange for one or more acts that
3 you performed as an employee of Yale?

4 THE DEFENDANT: Yes, I understand, Your Honor.

5 THE COURT: And that's derived from Sun-Diamond at
6 404-5. And do you understand the government would have to
7 prove beyond a reasonable doubt that the payment was made with
8 the intent to influence you in an action you took as an
9 employee of Yale and received by you with intent to be
10 influenced in one of those official acts?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Do you understand the government would
13 also have to prove that on or about the date alleged in the
14 particular count you participated -- one participant in the
15 scheme, you or somebody else involved in the conspiracy of the
16 scheme, transmitted or caused to be transmitted a wire
17 communication, which includes a wire transfer of money from one
18 state to another state, and you knew that that was occurring or
19 you should have foreseen that it would occur?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: All right. And then in both counts --
22 Count One you're charged also with conspiracy to commit wire
23 fraud, and in Count Two, in addition to honest services wire
24 fraud, you're charged with wire fraud. Do you understand that?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: So do you understand that to prove wire
2 fraud, particularly as alleged in Count Two but also relevant
3 to Count One, the government would have to prove beyond a
4 reasonable doubt first the existence of a scheme to defraud or
5 a scheme to get property from Yale by knowingly and willfully
6 making material false or misleading statements to Yale as
7 alleged in the information?

8 THE DEFENDANT: Yes, I understand, Your Honor.

9 THE COURT: And do you understand that defraud means,
10 among other things, in the context of this case, to deceive
11 Yale and deprive of it of your honest services in exchange for
12 a bribe?

13 THE DEFENDANT: Yes, I understand, Your Honor.

14 THE COURT: And do you understand a false statement is
15 a statement that you know at the time to be untrue or
16 misleading?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: And do you understand that the government
19 would have to prove, as I just suggested, that you made the
20 false or misleading statement knowingly, that is intentionally,
21 not by accident or mistake?

22 THE DEFENDANT: Yes, I understand, Your Honor.

23 THE COURT: And do you understand the government would
24 have to prove that you made that statement willfully, knowing
25 it was part of an illegal scheme?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: And do you understand the way this case is
3 charged, the government would have to prove that you made it
4 with intent to defraud, that is, to deceive Yale, to obtain
5 property for yourself or for another person, basically
6 admission to Yale?

7 THE DEFENDANT: Yes, Your Honor, I understand.

8 THE COURT: And do you understand that the right to
9 make a properly informed decision and control who gets admitted
10 to Yale is a form of Yale's property?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Do you understand the government would
13 also have to prove beyond a reasonable doubt that any false or
14 misleading statement you made was material, meaning that it was
15 capable of influencing the decision of the decisionmaker to
16 whom it was addressed?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: And do you understand that the government
19 would have to prove beyond a reasonable doubt that for the
20 purpose of executing the scheme on or about the date alleged
21 you caused a wire communication from one state to another to
22 occur in furtherance of the scheme, or it was reasonably
23 foreseeable that an interstate wire communication would be used
24 in furtherance of the scheme?

25 THE DEFENDANT: Yes, I understand, Your Honor.

1 THE COURT: And with regard to the conspiracy -- so
2 Count One charges you with conspiracy to commit wire fraud and
3 honest services wire fraud. Do you understand that to prove a
4 conspiracy, the government would have to prove beyond a
5 reasonable doubt first that the agreement specified in the
6 information and not some other agreement or agreements had
7 existed between you and Mr. Singer to commit the crimes of wire
8 fraud or honest services wire fraud?

9 THE DEFENDANT: Yes, I understand, Your Honor.

10 THE COURT: Do you understand that a conspiracy is a
11 spoken or unspoken agreement by two or more people to commit a
12 crime and it's the agreement that constitutes the crime; it
13 doesn't matter whether it achieved its unlawful goal?

14 THE DEFENDANT: Yes, I understand, Your Honor.

15 THE COURT: And do you understand that to achieve your
16 conviction on Count One, the government would have to prove
17 beyond a reasonable doubt that you were a member of the
18 conspiracy, meaning that you knowingly and willfully joined in
19 the agreement with at least one other person to commit at least
20 one of the crimes alleged to be an object of the conspiracy?

21 THE DEFENDANT: Yes, I understand, Your Honor.

22 THE COURT: And again, do you understand that to act
23 knowingly means to act voluntarily and intentionally, not by
24 accident or mistake?

25 THE DEFENDANT: Yes, I understand, Your Honor.

1 THE COURT: And do you understand to act willfully
2 means essentially to act knowing that what you were doing was
3 illegal?

4 THE DEFENDANT: Yes, I understand, Your Honor.

5 THE COURT: And do you understand that to prove your
6 membership of the conspiracy, the government would have to
7 prove beyond a reasonable doubt that you joined the conspiracy
8 willfully and that you both intended to agree with one other
9 alleged conspirator to commit at least one of the crimes, wire
10 fraud or honest services wire fraud, and also intended that the
11 crime actually be committed?

12 THE DEFENDANT: Yes, I understand, Your Honor.

13 THE COURT: And do you understand that with regard to
14 Count One, the government would have to prove that you entered
15 into an agreement to exchange an act as an employee of Yale, in
16 this case recommending somebody for admission as a soccer
17 player, in return for payment that was made and accepted to get
18 you to make that official act?

19 THE DEFENDANT: Yes, I understand, Your Honor.

20 THE COURT: And do you understand that the government
21 would have to prove that there was an overt act that occurred
22 in furtherance of the conspiracy, that some -- I'll explain it
23 to you. But do you understand that generally?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: And do you understand that an overt act is

1 an act knowingly committed by one or more of the conspirators
2 during the period of the conspiracy in an effort to accomplish
3 a goal of the conspiracy?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Do counsel think I've covered everything I
6 should cover?

7 MR. ROSEN: Yes, Your Honor.

8 MR. THOMAS: I agree.

9 THE COURT: So let's look at the information. You
10 said you read the information; is that correct?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: And Count One, which is on page 6 in
13 paragraph 24, charged that from in or about April 2014 through
14 in or about April 2018 in the District of Connecticut and
15 elsewhere, the defendant, Rudolph "Rudy" Meredith, conspired
16 with William "Rick" Singer and others known and unknown to the
17 United States Attorney to commit wire fraud and honest services
18 wire fraud, that is, having devised and intending to devise a
19 scheme and artifice to defraud -- and "and" in an indictment
20 and means "or," so or to obtain money or property, specifically
21 admission to Yale University, by means of materially false and
22 fraudulent pretenses, representations and promises and -- which
23 here means "or" -- to deprive his employer, Yale University, of
24 its right to his honest and faithful services through bribes
25 and kickbacks did transmit and cause to be transmitted, by

1 means of wire communication in interstate or foreign commerce,
2 writings, signs, signals and sounds for the purpose of
3 executing the scheme to defraud.

4 Did you commit the crime charged in Count One?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: And Count Two charges that -- this is in
7 paragraph 26 -- on or about April 18, 2018, in the District of
8 Massachusetts and elsewhere, the defendant, you, having devised
9 and intending to devise a scheme and artifice to defraud or for
10 obtaining money and property, specifically admission to Yale,
11 by means of materially false and fraudulent pretenses or
12 representations and promises or -- it "says "and" but "or" --
13 or to deprive his employer, Yale University, of its right to
14 his honest and faithful services through bribes and kickbacks
15 did, for the purpose of executing a scheme to defraud, transmit
16 and cause to be transmitted by means of wire communications in
17 interstate and foreign commerce, writings, signs, signals,
18 pictures and sounds, specifically a \$4,000 wire transfer from a
19 bank account in Massachusetts to a bank account in Connecticut.

20 Did you commit that crime?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: All right. Now, did you read the
23 submission the government made in response to my order that was
24 filed on March 15, it's docket number 18, and it includes a
25 statement of facts relating to what you allegedly did that

1 begins on page 8?

2 MR. THOMAS: I don't know that he did, Your Honor, but
3 let me show him the document --

4 THE COURT: It may not be -- you can refresh his
5 recollection. The government is going to have a chance to
6 speak to it.

7 MR. THOMAS: I don't think we did that. I think that
8 was done by the lawyers.

9 THE COURT: Here, I'm going to ask the prosecutor to
10 summarize what the government's evidence would have been if we
11 went to trial, and then I'm going to ask if you agree with his
12 summary of what you did.

13 MR. ROSEN: Judge, the government would show that the
14 defendant was obviously an employee and a fiduciary of Yale.
15 The government would also show that the admissions spot at Yale
16 was a property right of Yale. And the government would also
17 show that Yale has athletic spots that they allocate to coaches
18 for the purpose of recruiting student athletes and providing
19 sort of increased chances of admission for the student
20 athletes, which is obviously a valuable commodity to be had for
21 a school such as Yale, which has a 6 percent admissions rate
22 and extremely high grade point average and SAT score for
23 incoming students. The evidence would also show that between
24 April of 2015 and April of 2018 the defendant agreed to accept
25 bribe payments from Rick Singer, who operates the Key and the

1 Key Worldwide Foundation. In total \$860,000 was paid. This
2 was for multiple students.

3 The agreement focused on -- the information focuses on
4 one in particular, a student who reached out to Singer in
5 November of 2017. Singer then created a fake soccer profile.
6 The student did not play soccer or at least did not play soccer
7 competitively at any level. The profile falsely depicted her
8 as a co-captain of a prominent soccer club team and a member of
9 I believe a Chinese national team -- is that correct -- and
10 provided this profile to defendant, who knew that the woman was
11 not a competitive soccer player.

12 The defendant then used it to justify the recruitment
13 of the student. The student was allowed to apply early to
14 Yale. She had already passed the deadline for early
15 application. The defendant facilitated the admission of the
16 application after the deadline. She was admitted early. And
17 in return for that, the defendant received \$400,000. It was a
18 check in the mail.

19 Singer in turn was paid \$1.2 million by the family of
20 the Yale applicant. This came both into Singer's charity
21 account, about \$900,000, and as well into his sort of business
22 bank account.

23 Defendant also solicited bribes from a Los Angeles
24 individual. They had met in I believe the early summer of
25 2017. Meredith asked defendant -- sorry. Defendant asked the

1 father of the Yale applicant for bribe payments and an
2 agreement was struck. The individual, the person began paying
3 Mr. Meredith on a monthly basis, and that continued through
4 March of 2018 in which these payments continued. The defendant
5 and the individual from Los Angeles met in Boston on April 12
6 of 2018. Meredith was provided with a sum of money as part,
7 again, partial payment for the bribe. During this meeting,
8 they arrived at a figure of \$450,000 for the bribe, and then
9 finally on April 18, 2018, the wire transfer of \$4,000 as
10 payment for the scheme from Massachusetts to defendant's bank
11 account in Connecticut.

12 THE COURT: Do you agree with the government's summary
13 of what you did?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: And how do you now wish to plead to the
16 two charges against you, guilty or not guilty?

17 THE DEFENDANT: Guilty, Your Honor.

18 THE COURT: Then I will direct the clerk to enter your
19 pleas of guilty because I find you are competent, you are
20 acting knowingly and voluntarily, you are effectively
21 represented, there's as independent basis in fact to support
22 your guilty plea. And based on the representations of the
23 government, I find that accepting the guilty plea, even though
24 there may be potential charges that weren't pursued, adequately
25 reflects the seriousness of the actual offense behavior --

1 well, here I'm just accepting the plea, not the agreement, but
2 not undermine the statutory purposes of sentencing or the
3 guidelines. I'll consider that issue further at the
4 sentencing. The parties should address it in their sentencing
5 memos. But you may take your seat back at the table.

6 THE DEFENDANT: Thank you, Your Honor.

7 THE COURT: Ordinarily, I would, and maybe I will,
8 schedule the sentencing for late -- something like June 20.
9 And if there's a reason to postpone the sentencing, if there's
10 a motion, I'll consider it. But does anybody want to be heard
11 on the sentencing being scheduled for, say, 2:30 on June 20?

12 MR. ROSEN: That's fine. I think the government would
13 anticipate filing a motion closer to the date, Your Honor.

14 THE COURT: Okay.

15 MR. THOMAS: I will note, I think it was in the plea
16 agreement, we included a clause where we agreed in advance to
17 potential continuances, it probably was the cooperation
18 agreement, in furtherance of the objectives of that agreement.

19 THE COURT: Well, I have that in mind, but not knowing
20 where this is going to go, I'm scheduling the sentencing for
21 June 20, at 2:30 p.m.

22 If the parties expect to -- well, if the parties want
23 to move for a continuance based on continued cooperation, I
24 assume, that's not complete, any motion to that effect shall be
25 filed by May 29. If there is no such motion and no such motion

1 is granted, anything not in the Presentence Report, memos,
2 motions, letters, shall be filed by June 6 and any responses by
3 June 13.

4 If there's anything that any party wants to file under
5 seal, you would have to file a motion to seal as required by
6 Local Rule 7.2, with a redacted copy of the document for the
7 public record or some compelling explanation as to why even a
8 redacted copy can't be made part of the public record.

9 Is there anything further in this matter for today?

10 MR. ROSEN: No, Your Honor.

11 MR. THOMAS: No, Your Honor.

12 THE COURT: Court is in recess.

13 (Recess taken 3:41 p.m.)

14 THE COURT: Actually, sorry. There's one thing I
15 meant to mention. As I wrote in DeJong, I'm ordering the
16 government particularly to provide the probation department and
17 me with all of the information that might be relevant to
18 sentencing, particularly to calculating the guideline range.
19 And if there's a concern that some of it cannot properly be
20 used because it was obtained pursuant to the proffer agreement,
21 it's immunized, point that out. If you think that order is not
22 a legally permissible or appropriate order, you can move for
23 reconsideration of it. You didn't have notice of this in this
24 case. But basically, the Supreme Court in Gall and
25 subsequently says all sentencings have to start by properly

1 calculating the guideline range, and if there's relevant
2 conduct about which the government has information, I need to
3 know it. Okay?

4 MR. ROSEN: Thank you.

5 THE COURT: Court is in recess.

6 (Recess taken 3:43 p.m.)

CERTIFICATE OF OFFICIAL REPORTER

I, Kelly Mortellite, Registered Merit Reporter
and Certified Realtime Reporter, in and for the United States
District Court for the District of Massachusetts, do hereby
certify that the foregoing transcript is a true and correct
transcript of the stenographically reported proceedings held in
the above-entitled matter to the best of my skill and ability.

Dated this 31st day of March, 2019.

/s/ Kelly Mortellite

Kelly Mortellite, RMR, CRR

Official Court Reporter